

**IN THE COURT OF SESSIONS, BORIVALI DIVISION, DINDOSHI,
GOREGAON, MUMBAI.**

BAIL APPLICATION NO.370 OF 2019

IN

C.R.107 of 2019

Kaushik Hiralal Sanghavi,]
Aged 32 years, Occ : Service,]
Mahisana Mension, 1st Floor,]
Telapal Road, Vile Parle (East),]
Mumbai.] ..Applicant

Versus

The State of Maharashtra,]
at the instance of Senior Inspector of]
Police, Vile Parle Police Station,] ..Respondent
Mumbai.

Ld. Advocate Shri A.K. Baxi for applicant.
Ld. Advocate APP Shri Salunkhe for State.

**CORAM: HIS HONOUR JUDGE
SHRI J.V. DESHMUKH.
(C.R.No.6)**

DATE : 9th April, 2019

ORDER

1. The present application has been moved by the applicant for grant of regular bail with respect to the offence punishable under Section 376, 341 and 506 of IPC, registered under C.R. No.107/2019 at Vile Parle Police Station.

The brief facts of the prosecution case are as follows :

2. The complainant has filed complaint to the police station on 22.03.2019 stating that she resides along with her parents at A/29, Velani Estate, Rani Sati Marg, Malad (E), Mumbai. She is working at Andheri, Mumbai. Her marriage was solemnized with one Mr. Jatin Gala near a bout 6 years back. She has taken divorce from him. The applicant/accused met her in family function at Matunga on 24.12.2018. She also came to know that accused had taken divorce from his wife. They came in contact with each other. Thereafter they used to contact on phone and used to meet, hence, they decided to solemnize marriage. They went in a Hotel at Andheri for taking lunch on 24.01.2019 at about 11.00 a.m. and stayed there. It was birth day of the accused. Accused made physical relations with her forcibly. Thereafter, they returned to their respective houses. Thereafter accused came along with complainant at Jodhpur on 02.02.2019. Then they returned to Mumbai on 05.02.2019. Thereafter date of marriage was fixed as 22.04.2019 in between the parties. Accused came at the residence of the complainant, however, thereafter, he gave a call to the complainant on 22.02.2019 and refused to marry with her. He also stopped all the communications with her. He came at the place of her job and made chaos. She lost her job due to the accused person. She questioned him about harassment, however, he picked up quarrel with her. He insulted her by saying her as prostitute. Thereafter, he beg pardon. The relations in between them were smooth. He had gone at his native place on 28.02.2019. He returned on 08.03.2019. Thereafter again they met with each other. Thereafter, he asked her to take back her clothes and

utensils back from his room by giving call her on 21.03.2019. She had gone accordingly in his room on 21.03.2019 in the afternoon, however, he committed rape forcibly on her, hence, she has filed complaint against him.

3. The applicant has filed present application stating that he has not committed any offence. He is falsely involved in the case. FIR was lodged due to failure of love affairs and to pressurise the applicant for marriage. He and complainant are living together in live in relationship since last three years. The members of the family had decided to get them married on 23.04.2019, however, applicant is not willing to marry with her, hence, she has lodged false complaint, hence, he prays that he be released on regular bail.

4. The investigating officer has opposed the application strongly by filing of reply. He repeated the facts of incident in detail. He further stated that he has commenced investigation. He has prepared spot panchanama. He has also recovered property from the spot. He had carried out medical examination of the accused and he had sent sample to the laboratory. He has also sent complainant to the medical officer for carrying out her medical examination. He has to record the statement of complainant under Section 164 of Cr.P.C. He has to record statement of witnesses. If the applicant is released on bail, he may pressurise the witnesses, hence, he prays that application be rejected.

5 I heard oral arguments advanced by advocated for both the sides at length. Considering above referred facts and circumstances, following point arise for my determination and my findings on the said point are as follows :

<u>Point</u>	<u>Findings</u>
1. Whether applicant is entitled to release on regular Bail ?	In the negative.
2. What order ?	As per final order.

REASONS

6. I have gone through the FIR and investigation papers. On perusal of it, it shows that applicant has been charged for the offence punishable under Sections 376, 341 and 504 of IPC. On perusal of the complaint, it shows that complainant has made specific allegations against the applicant that accused had kept physical relations forcibly with her on 24.01.2019 in the hotel at Andheri at 11.00 a.m. Furthermore, she has also made a specific allegations against him stating that he has committed a rape on her on 21.03.2019 at about 06.00 p.m. in his room. She has specifically made allegations in the complaint that after committing rape when she pushed him, he ran away from the room by putting a lock from outside on the room. Thus she has made specific allegations of rape against the applicant. On perusal of the investigation papers, it shows that investigating officer has commenced the investigation. He has prepared spot panchanama. He seized clothes of the accused under seizure panchanama. He had sent accused and complainant to the medical officer for medical examination. He has received medical report with respect to

the complainant and the accused. He seized clothes of the complainant under seizure panchanama. Thus investigation is in progress. The nature of offence is serious one. Furthermore, serious allegations are made by the complainant against the accused in the complaint, therefore, it is not proper to release the applicant on bail at this stage. Hence, I answer point No.1 in the negative and proceed to pass following order.

ORDER

Bail Application No.370/2019 is hereby dismissed and disposed of accordingly.

09/04/2019 Date of dictation : 09/04/2019 Date of transcription by steno : 12/04/2019 Date of order signed by HHJ : Date of delivery to CC :	Sd/- (J.V. DESHMUKH) J U D G E SESSIONS COURT, DINDOSHI, MUMBAI.
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“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.”	
UPLOADED ON 12.04.2019 AT 05.30 P.M.	PRASAD SHARAD TARE, STENOGRAPHER
Name of the Judge (with Court Room No.)	HHJ Shri J.V. Deshmukh.
Date of Pronouncement of Judgment/Order.	09/04//2019
Judgment/Order signed by P.O. on	12/04/2019
Judgment/Order uploaded on	12/04/2019